

Excerpt: Title 26 Internal Revenue Code Section 132(f)

NOTES:

- Sections 1C, 2B, 3, 5C, 5D, and 6 (in red) are not applicable under Executive Order 13150.
- The benefit amounts described in Section 2A are adjusted annually by IRS Revenue Procedures which set forth inflation adjusted items.

TITLE 26 - INTERNAL REVENUE CODE

Subtitle A - Income Taxes

CHAPTER 1 - NORMAL TAXES AND SURTAXES

Subchapter B - Computation of Taxable Income

PART III - ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

Sec. 132. Certain fringe benefits

(f) Qualified transportation fringe

(1) In general

For purposes of this section, the term "qualified transportation fringe" means any of the following provided by an employer to an employee:

(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

(B) Any transit pass.

(C) Qualified parking. (NOT APPLICABLE under E.O. 13150)

(2) Limitation on exclusion

The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed -

(A) \$100 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

(B) \$175 per month in the case of qualified parking. (NOT APPLICABLE under E.O. 13150)

(3) Cash reimbursements (NOT APPLICABLE under E.O. 13150)

For purposes of this subsection, the term "qualified transportation fringe" includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

(4) No constructive receipt

No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.

(5) Definitions

For purposes of this subsection -

(A) Transit pass

The term "transit pass" means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is -

- (i) on mass transit facilities (whether or not publicly owned), or
- (ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

(B) Commuter highway vehicle

The term "commuter highway vehicle" means any highway vehicle -

- (i) the seating capacity of which is at least 6 adults (not including the driver), and
- (ii) at least 80 percent of the mileage use of which can reasonably be expected to be -
 - (I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and
 - (II) on trips during which the number of employees transported for such purposes is at least 1/2 of the adult seating capacity of such vehicle (not including the driver).

(C) Qualified parking (NOT APPLICABLE under E.O. 13150)

The term "qualified parking" means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

(D) Transportation provided by employer (NOT APPLICABLE under E.O. 13150)

Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

(E) Employee

For purposes of this subsection, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1).

(6) Inflation adjustment (NOT APPLICABLE under E.O. 13150)

(A) In general

In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to -

- (i) such dollar amount, multiplied by
 - (ii) the cost-of-living adjustment determined under section 1 (f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1998" for "calendar year 1992".
- In the case of any taxable year beginning in a calendar year after 2002, clause (ii) shall be applied by substituting "calendar year 2001" for "calendar year 1998" for purposes of adjusting the dollar amount contained in paragraph (2)(A).

(B) Rounding

If any increase determined under subparagraph (A) is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.

(7) Coordination with other provisions

For purposes of this section, the terms "working condition fringe" and "de minimis fringe" shall not include any qualified transportation fringe (determined without regard to paragraph (2)).